INVESTIGATORS SUMMARY

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USE OF FORCE
TYPE: BROKEN BONE
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On Tuesday January 24, 2006, Sergeants Richard Smith and Marshall Baird along with Lieutenant Mike Parker responded to Van Nuys Court regarding a use of force resulting in a broken bone by Van Nuys Court personnel. During the course of escorting Suspect Francisco Covarrubias to a court appearance, Suspect Covarrubias refused to be handcuffed, a physical altercation with Deputy Robert Ebe and Deputy [redacted] resulted in Suspect Covarrubias' left elbow being broken **(refer Exhibit A)**.

INVOLVED PERSONNEL:

Deputy Ebe, Robert, #[redacted]	MB/[redacted]	5'09"/180lbs
Deputy [redacted], #[redacted]	MW/[redacted]	6'02"/250lbs

EMPLOYEE WORK HISTORY

Deputy Ebe is a 6 year veteran of the Department and has been assigned to Van Nuys Court since July 30, 2000. [redacted]

[redacted] is a 5 1/2 year veteran of the Department and has been assigned to Van Nuys Court since August 4, 2002. [redacted].

SUSPECT

Francisco Covarrubias, BK#8751742	MH/26	5'05"/165lbs

Suspect Covarrubias [redacted] **(refer Exhibit E)**.

WITNESSES

[redacted], FH/47, [redacted] [redacted] [redacted]
[redacted], FB/28, [redacted] [redacted]

INJURIES

Deputy Ebe complained of pain in his left rib area at the time of the incident. He declined medical attention.

Deputy [redacted] was not injured in this incident.

Suspect Covarrubias' left elbow was broken and he complained of pain in his left forehead area **(refer Exhibit C&G).**

PHYSICAL EVIDENCE

NONE

INVESTIGATOR OBSERVATIONS:

The area in which this incident occurred is a relatively small space measuring approximately four feet in width by ten feet in length. The small area and the ventilation system precluded the use of O. C. Spray as it would have contaminated the deputies and the adjacent court rooms.

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy Ebe used his body weight as a control technique, pushing Suspect Covarrubias against a wall to stop his aggression. He then handcuffed Suspect Covarrubias.

Deputy [redacted] used his body weight as a control technique holding Suspect Covarrubias against a wall, allowing Deputy Ebe to handcuff Suspect Covarrubias.

WEAPONS USED BY SUSPECTS

Suspect Covarrubias was uncooperative, resistive and used his elbow to strike Deputy Ebe in the ribs.

PROPERTY DAMAGE:

NONE

CRIMINAL INVESTIGATOR AND CHARGES FILED:

Jail Investigations Unit, Detective Ed Capifali, #[redacted]

One count of felony 69 P.C., one count misdemeanor 242/243 P.C. and one count of misdemeanor 148 P.C. was filed against Suspect Covarrubias.

LIGHTING OR WEATHER CONDITIONS:

This incident took place in a well lighted hallway which led to a court lock-up holding cell, which was approximately four feet wide **(refer Exhibit F)**.

INVOLVED EMPLOYEES STATEMENTS:

Deputy Robert Ebe, #[redacted]

Deputy Ebe was interviewed by Internal Affairs Bureau Sergeants Richard Smith and Marshall Baird on February 2, 2006. The following is a summary of that interview.

Deputy Ebe said that he was assigned as the Division 121/122, ninth floor lock-up deputy. At approximately 1100 hours, Deputy Elena Torres #[redacted], Division 122 Bailiff, requested two inmates be brought to the Division 122 court room **(refer Exhibit D)**.

Deputy Ebe said that he called Suspect Covarrubias to the lock-up cell door and opened the cell door. He directed Suspect Covarrubias to face the east wall of the hall and Suspect Covarrubias complied. He told Suspect Covarrubias that he was going to the courtroom, and directed Suspect Covarrubias to put his hands behind his back for handcuffing. He was able to place a handcuff on Suspect Covarrubias' right wrist, at which time Suspect Covarrubias became agitated because he did not want to go to court.

Deputy Ebe said that Suspect Covarrubias suddenly turned to his right away from the wall, and began pumping his right arm up and down as he yelled profanities at Deputy Ebe. Based upon the Suspect's words and actions, Deputy Ebe believed this was done to emphasize that he was not going to court, but instead that he wanted to go down to the main lock-up. In order to control Suspect Covarrubias, Deputy Ebe put his left hand onto Suspect Covarrubias back and pushed him into the wall as he grasped Suspect Covarrubias' right hand with his right hand. Deputy Ebe also put his lefft foot between Suspect Covarrubias' feet and attempted to separate them for better control by tapping against the inside of the Suspect's ankle with his foot.

Deputy Ebe said that Suspect Covarrubias continually brought his feet back together and dropped the papers he was holding. Suspect Covarrubias began struggling violently by twisting to his right, attempting to break free of Deputy Ebe's grasp. Suddenly Suspect Covarrubias spun to his left, and elbowed Deputy Ebe in the ribs with his left elbow. The spin caused Deputy Ebe to lose

control of Suspect Covarrubias right wrist and they ended up facing the west wall of the hall. Deputy Ebe grabbed Suspect Covarrubias' left arm and wrist with both hands. The deputy's left hand was on Suspect Covarrubias' left wrist and his right hand gripped Suspect Covarrubias left bicep.

Deputy Ebe said that at this point Deputy [redacted] arrived and held Suspect Covarrubias against the wall by pushing Suspect Covarrubias' right shoulder against the wall. As Deputy [redacted] held Suspect Covarrubias' right hand behind his back, Deputy Ebe pulled Suspect Covarrubias' left hand behind his back, Suspect Covarrubias had tensed his left arm, as he completed the handcuffing. Suspect Covarrubias was escorted to an interview room and a supervisor was notified. When Suspect Covarrubias was in the interview room, he told Sergeant Hayes he was in pain, so he was taken downstairs treated by Los Angeles City Fire Department paramedics.

Deputy Ebe said that during the incident Suspect Covarrubias continually yelled profanities at him. He said that he did not strike Suspect Covarrubias, nor did he hit him with an impact weapon or kick him. He said that due to the confined space wherein the altercation occurred, as well as the court's ventilation system, O. C. Spray was not a viable option. He said that he did not hear Suspect Covarrubias' arm break and could not say how it happened.

Deputy [redacted], #[redacted]

Deputy [redacted] was interviewed by Internal Affairs Bureau Sergeants Richard Smith and Marshall Baird on January 24, 2006. The following is a summary of that interview.

Deputy [redacted] said that he was assigned as the Bailiff in Division 121, Van Nuys Court, on the day of the incident. He said that he was directed to have an inmate awaiting trial in Division 121 be brought to the court room.

Deputy [redacted] said that he exited the court room and entered the hall leading to the lock-up. As soon as he opened the door to the hall, he saw Deputy Ebe and an inmate against the east wall of the hall. Deputy Ebe was attempting to handcuff the inmate, who was later identified as Suspect Covarrubias. He said Suspect Covarrubias was struggling to prevent Deputy Ebe from handcuffing him. He also saw Deputy Ebe's attempt to spread Suspect Covarrubias' legs to gain control.

Deputy [redacted] said that he ran to assist Deputy Ebe, but prior to reaching him, Suspect Covarrubias and Deputy Ebe spun away from the east wall. Deputy Ebe then pushed Suspect Covarrubias against a cell door on the west wall. When he reached Deputy Ebe, he grabbed Suspect Covarrubias' right shoulder and arm, and pushed Suspect Covarrubias against the wall while controlling his right arm. He said that he pulled Suspect Covarrubias' right hand behind his back and Deputy Ebe completed the handcuffing even as Suspect Covarrubias continued to struggle against the procedure. They then escorted Suspect Covarrubias to an interview cell in

the hall across from Division 121's door **(refer Exhibit B)**.

Deputy [redacted] said that he did not see any impact weapon used and that O. C. Spray was not an option due to the close quarters of the altercation locale and the ventilation system in the building which would have spread the O. C. Spray into the court rooms. He said that he did not hear any sound of a bone breaking; however, Suspect Covarrubias did complain of pain to his left arm.

WITNESSES STATEMENTS:

[redacted], BK#[redacted]

Inmate [redacted] was interviewed by Internal Affairs Bureau Sergeants Richard Smith and Marshall Baird on the night of the incident. The following is a summary of that interview.

Inmate [redacted] said that she was inside the small cell in the lock-up area with Inmate [redacted] during the time of the incident. She said the window in the cell was blocked by a metal plate which blocked her view of the incident. She said she heard a commotion in the hall outside the door which sounded like an inmate resisting a deputy. She heard someone yelling and swearing, but could not make out what was being said.

Inmate [redacted] said that during the incident, Inmate [redacted] was laying on the floor trying to see under the cell door. Inmate [redacted] was telling her ([redacted]) that she did not like what the deputies were doing, even though she could not see what was occurring. Inmate [redacted] said that later, when she and Inmate [redacted] were in a glass enclosed interview cell next to Suspect Covarrubias, Inmate [redacted] told Suspect Covarrubias that she would say that the deputies had beaten him (Covarrubias) without reason, and that she had seen the altercation. Inmate [redacted] said that statement would be a lie because neither she nor Inmate [redacted] could see anything.

[redacted], BK#[redacted]

Inmate [redacted] was interviewed by Internal Affairs Bureau Sergeants Richard Smith and Marshall Baird on the night of the incident. The following is a summary of that interview.

Inmate [redacted] said that she was in the ninth floor lock-up with Inmate [redacted] during the incident. She said that she did not see anything due to the window being blocked. She said that she did hear someone swearing and saying "You fucking Jamaican. Fuck you." She believes that these comments were directed at the deputy because he is black and Suspect Covarrubias is Hispanic. Inmate [redacted] did not allege any wrongdoing by deputies.

SUSPECT STATEMENTS:

Francisco Covarrubias, BK#8751742

Suspect Covarrubias was interviewed by Internal Affairs Bureau Sergeants Richard Smith and Marshall Baird on the night of the incident. The following is a summary of that interview.

Suspect Covarrubias said that he was in the holding tank on the ninth floor and that he had been told by his attorney that he would not be going to court that day. He said that he asked Deputy Ebe if he could be taken down to the main lock-up area. When he asked Deputy Ebe, Deputy Ebe became angry and began using "profanity" toward him. He said that he had been laying down on a bench when he asked and Deputy Ebe told him that he (Ebe) did not like his attitude and to approach the cell door.

Suspect Covarrubias said that he picked up his property, put his shirt on and approached the cell dooor as he had been directed. When he reached the door, Deputy Ebe opened the door he exited at which time Deputy Ebe told him to make a quick left against the wall. Deputy Ebe then began kicking his legs apart. He said that he did not respond to Deputy Ebe, at which time Deputy Ebe "snatched me up and threw me to the other side." He said that Deputy Ebe had his right hand behind his back and another arrived. This other deputy grabbed his left hand and Deputy Ebe then grabbed both his hands and pulled them behind his back. At this time he heard his left arm "snap." He said that he immediately screamed "You broke my elbow, you broke my elbow." He was then handcuffed.

Suspect Covarrubias said that the other deputy told him to relax and he was escorted to the interview cell. He said that Deputy Ebe "took advantage" of the situation and that he did not do anything even though Deputy Ebe used profanity toward him. He said that he did not say anything to Deputy Ebe that would have incited Deputy Ebe.

I.A.B. Note: Suspect Covarrubias was released from custody on February 1, 2006. On February 3, 2006, Suspect Covarrubias left a message on Sergeant Smith's voice mail, indicating that he had been unable to talk freely with investigators on the night of the incident (unknown reasons); however, he did not leave a phone number he could be reached at and he has not made any other attempts to contact investigators.